

Questions and Answers CUPA to State Reporting Annual Summary Reports 1-4

These questions have been asked during training on the Summary Reports over the last several years. Many of the questions asked by CUPAs have been integrated into the instructions for the Summary Reports during the June 2003 review of them and may not be reflected in this document. Trainers and state agencies have developed these answers for use by CUPA staff. If any of the answers are not credible, please contact the Unified Program Section for clarification. If a question seems appropriate for inclusion into this document, please let the Unified Program Section know. These questions and answers are separated in three sections: Fees, Reporting and Inspection and Enforcement. If a question fits in two sections, it may be repeated.

Fees:

1. **Question: How should CUPAs report non-collectible fees?**

Answer: Report 2 reflects uncollected fees for the reporting fiscal year. If collection efforts fail within the CUPA's designated timeframe, the CUPA is not required to report those uncollected fees.

2. **Question: Should CUPAs send late fees and penalties paid by businesses at the same time the surcharge is sent?**

Answer: The State does not have the authority to collect late fees and penalties for the surcharge. The CUPA should retain any late fees and penalties collected for late payment of the surcharge.

3. **Question: How are fees reported for billed businesses found to be inactive at the time of reporting, but later were discovered to be out of business?**

Answer: Report 2 reflects the fees that were collected during the reporting fiscal year. There is no requirement to track and report uncollected fees; however the collection of all fees is expected to be pursued with the same diligence.

4. **Question: If a CUPA has a Tiered Permitting site with several different units (PBR, CA, CE) are fees charged for only the highest tier?**

Answer: The CUPA is responsible for establishing the single fee system at a level sufficient to pay necessary and reasonable costs of implementing the Unified Program.

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5. Question: Should each stationary source in a jurisdiction be charged a surcharge?

Answer: The regulations currently state in section 15240 (c) (3) that "A component assessed on businesses regulated under the Health and Safety Code Section 25531 et seq., the California Accidental Release Prevention (CalARP) Program. This CalARP surcharge component is assessed on a single company or business within a CUPA's jurisdiction regardless of the business's number of stationary sources. *Note: This answer is subject to change based upon proposed regulations expected to be adopted by fall of 2006.*

6. Question: Can each stationary source within a jurisdiction be charged the CUPA fees?

Answer: This is a business decision by each CUPA. Since the CUPA is to develop the local fees based upon necessary and reasonable costs, this must be a choice the CUPA makes when adopting local fees.

7. Question: Should fees for one-time permits, i.e. tank installation permits, for a completely new business that was never in the Unified Program be included in the Single Fee Summary row?

Answer: Yes, CCR 15210(a) states in pertinent part, "...all fees mandated by Health and Safety Code ... 25287" and "... and any other fees levied by a local agency specifically to fund the implementation of the programs specified ..."

8. Question: Should fees for one-time permits, i.e. tank installation permits, for an existing business that, as an example is adding or removing a tank, be included in the Single Fee Summary row?

Answer: Yes, CCR 15210(a) states in pertinent part, "...all fees mandated by Health and Safety Code ... 25287" and "... and any other fees levied by a local agency specifically to fund the implementation of the programs specified ..."

9. Question: Should penalties and/or late fees assessed on the CUPA's single fee amount(s) be included in the Single Fee Summary row?

Answer: Yes, CCR 15210(a) states in pertinent part, "...all fees mandated by Health and Safety Code ... 25287" and "... and any other fees levied by a local agency specifically to fund the implementation of the programs specified ..."

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Reporting:

1. Question: If a CUPA bills in one fiscal year and collects monies in a different fiscal year, how should the money be reported?

Answer: Summary Report 1 contains the information on the quarterly collections in each CUPA. If collections are being reported for a fiscal year that is not directly related to the current billing, identify this information on Summary Report 1.

2. Question: Are regulated businesses that have not been inspected during the fiscal year counted as part of the "Total Regulated Businesses?"

Answer: Yes. Even though not all businesses were inspected within the fiscal year they are all subject to the Unified Program statutes and regulations and are counted as regulated businesses and need to be included as part of the "Total Regulated Businesses." This information is used to identify, statewide, how many regulated businesses the CUPAs regulate and is important for setting the state surcharge and for analysis of the program.

3. Question: What facilities are counted under "Total Regulated Businesses?"

Answer: All active regulated businesses and temporarily closed UST sites are counted. Permanently closed regulated businesses are not counted under "Total Regulated Businesses". Closed or abandoned UST sites should not be counted, even though they may continue to be held in the database.

4. Question: How should homeowner storage tanks used for heating oils be reported?

Answer: These tanks are not regulated under the Unified Program and should not be reported on any of the Summary Reports.

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5. Question: Does a new regulated business that is constructed in one reporting year but does not begin operation until a subsequent reporting year get counted as a "Regulated Business" in the construction year even though it will not be charged the CUPA Oversight surcharge until the year it is in operation?

Answer: There is no specific language in the implementing statutes or regulations that cover this question. However, in general, you should count a business when it is authorized to operate, store, produce, etc. Therefore a business that is authorized to store hazardous materials in fiscal year 2004/05 but does not begin sales operation until fiscal year 2005/06 would be counted in fiscal year 2004/05.

Inspection and Enforcement:

1. Question: How are formal enforcement actions that result in something other than monetary penalties reported?

Answer: Sometimes settlements include cost recovery, supplemental environmental projects and other penalties, in addition to or in place of fines or monetary penalties. The CUPA is to determine what the total value of the settlement is and report that amount.

2. Question: Can an inspection be counted in two columns? For example, on a regularly scheduled inspection it is found that the old business is out of business and a new regulated but non-permitted business is now at that site. Could this be counted as a regularly scheduled inspection and other inspection?

Answer: No. An inspection may be counted in only one column or "box" for each inspection.

3. Question: What businesses are counted as "Total Regulated Business"?

Answer: Any business subject to the requirements of the Unified Program is counted as a regulated business. A business subject only to local requirements would not be counted as a regulated business for purposes of the summary report(s).

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4. **Question: How does a CUPA count multiple informal actions for one violation?**

Answer: Currently, the reporting of enforcement action(s) may only be counted once per business. Escalating informal actions instituted to gain compliance may be used to document the non-compliance for further action, but may not be counted.